

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 01, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARTURO TEJEDA-GOMEZ (01) and
ANDRES GUTIERREZ, (02)

Defendants.

No. 4:21-cr-06004-SMJ-1
4:21-cr-06004-SMJ-2

**ORDER GRANTING JOINT
MOTION AND DECLARATION
TO CONTINUE PRE-TRIAL
CONFERENCE AND TRIAL DATE**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Arturo Tejeda-Gomez's Joint Motion and Declaration to Continue Pre-Trial Conference and Trial Date, ECF No. 80, and related Motion to Expedite, ECF No. 82. Defense counsel Kenneth D. Therrien requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant Tejeda-Gomez (01) and Defendant Gutierrez (02) supports counsel's request for a trial continuance for the articulated reasons. ECF Nos. 81 & 84. Assistant U.S. Attorney Benjamin David

¹ This Order amends and supersedes in part the Court's February 12, 2021 Case Management Order, ECF No. 52.

1 Seal, appearing on behalf of the Government, does not oppose the request. ECF
2 No. 80 at 2.

3 The Indictment was filed on February 9, 2021. ECF No. 41. Defense counsel
4 appeared for Defendant Tejeda-Gomez (01) on February 11, 2021. ECF No. 51.
5 Defense counsel appeared for Defendant Gutierrez (02) on February 18, 2021. ECF
6 No. 55. This is Defendant Tejeda-Gomez's third request for a continuance.

7 To ensure defense counsel is afforded adequate time to review discovery,
8 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
9 grants the motion, extends the pretrial motion deadline, and resets the currently-
10 scheduled pretrial conference and trial dates. The Court finds that Defendant
11 Tejeda-Gomez's continuance request is knowing, intelligent, and voluntary, and
12 that the ends of justice served by granting a continuance outweigh the best interest
13 of the public and Defendant in a speedy trial. The delay resulting from Defendant
14 Tejeda-Gomez's motion is therefore excluded under the Speedy Trial Act.

15 Counsel are advised that all successive continuance requests will be closely
16 scrutinized for the necessity of more time to effectively prepare, taking into account
17 the exercise of due diligence.

18 Having considered the parties' proposed case schedule and deadlines, the
19 Court now enters the following Amended Case Management Order, which sets forth
20 the deadlines, hearings, and requirements the parties will observe in this matter. To

ORDER GRANTING JOINT MOTION AND DECLARATION TO CONTINUE
PRE-TRIAL CONFERENCE AND TRIAL DATE AND AMENDED CASE
MANAGEMENT ORDER – 2

1 the extent this Order conflicts with any previously-entered Orders in this matter,
2 this Order shall govern. All counsel are expected to carefully read and abide by this
3 Order and such provisions of the current CMO which have not been superseded
4 hereby. The Court will grant relief from the requirements in this Order only upon
5 motion and good cause shown.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 **1.** Defendant Tejeda-Gomez's Joint Motion and Declaration to Continue
8 Pre-Trial Conference and Trial Date, **ECF No. 80**, and related Motion
9 to Expedite, **ECF No. 82**, are **GRANTED**.

10 **2.** The Court finds, given defense counsel's need for time to review
11 discovery, prepare any pretrial motions, conduct investigation, and
12 prepare for trial, that failing to grant a continuance would result in a
13 miscarriage of justice and would deny defense counsel the reasonable
14 time necessary for effective preparation, taking into account the
15 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i),(iv). The
16 Court, therefore, finds the ends of justice served by granting a
17 continuance in this matter outweigh the best interest of the public and
18 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

19 **3. Original CMO.** Counsel must review the provisions of the original
20 February 12, 2021 CMO, ECF No. 52, and abide by those procedures

1 which remain in full force and effect and are incorporated herein
2 except for the new compliance deadlines in the following Summary of
3 Amended Deadlines.

4 **4. Pretrial Conference**

5 **A.** The current pretrial conference date of September 23, 2021, is
6 **STRICKEN and RESET to May 12, 2022, at 9:15 A.M. in**
7 **RICHLAND.** At this hearing, the Court will hear **ALL** pretrial
8 motions that are noted for oral argument.

9 **B.** All Pretrial Conferences are scheduled to last no more than
10 **thirty (30) minutes**, with each side allotted **fifteen (15)**
11 **minutes** to present their own motions and resist motions by
12 opposing counsel. If any party anticipates requiring longer than
13 fifteen minutes, that party must notify the Courtroom Deputy at
14 least seven (7) days prior to the hearing. **Any party who fails**
15 **to provide this notice will be limited to fifteen (15) minutes.**

16 **C.** If a motion is to be heard with oral argument, and a party plans
17 to call witnesses or present exhibits, that party must file an
18 exhibit and/or witness list by no later than **seventy-two hours**
19 before the hearing on the motion.

1 **D.** If a party intends to use a laptop, thumb drive, or DVD or CD
2 for presentation of documents, or audio or video recordings, that
3 party must contact the Courtroom Deputy at least **one month**
4 prior to the hearing and schedule an orientation of usage and test
5 of compatibility.

6 **E.** If a party intends to use a demonstrative exhibit, such as a
7 PowerPoint presentation, it must be submitted to the Court and
8 all opposing parties at least **twenty-four hours** prior to its
9 intended use

10 **5. Trial.** The current trial date of October 25, 2021, is **STRICKEN** and
11 **RESET to June 13, 2022, at 9:00 A.M. in RICHLAND.** The **final**
12 pretrial conference will begin at **8:30 A.M.**

13 **6.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
14 **DECLARES EXCLUDABLE from Speedy Trial Act calculations**
15 the period from **August 18, 2021**, the date defense counsel moved to
16 continue, through **June 13, 2022**, the new trial date, as the period of
17 delay granted for adequate preparation by counsel.

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7. Summary of Deadlines

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	April 7, 2022
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	May 12, 2022 9:15 A.M. - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendant/s (if applicable)	May 30, 2022
Grand jury transcripts produced to Defendant/s Case Agent: CIs: Other Witnesses:	May 30, 2022 May 30, 2022 May 30, 2022
Exhibit lists filed and emailed to the Court	June 3, 2022
Witness lists filed and emailed to the Court	June 3, 2022
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	June 1, 2022
Exhibit binders delivered to all parties and to the Court	June 3, 2022
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	June 6, 2022
Trial notices filed with the Court	June 3, 2022
Technology readiness meeting (in-person)	June 6, 2022
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FINAL PRETRIAL CONFERENCE	June 13, 2022 8:30 A.M. - Richland
JURY TRIAL	June 13, 2022 9:00 A.M. - RICHLAND

1 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
2 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
3 Service.

4 **DATED** this 1st day of August 2021.

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6 SALVADOR MENDOZA, JR.
7 United States District Judge
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